

FIRST REGULAR SESSION

# HOUSE BILL NO. 704

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GAMBARO.

Read 1<sup>st</sup> time February 8, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1840L.011

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### AN ACT

To repeal section 429.015, RSMo 2000, relating to liens on real property by political subdivisions for abatement of dangerous buildings and to enact in lieu thereof one new section relating to the same subject.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 429.015, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 429.015, to read as follows:

429.015. 1. Every [registered] **licensed** architect or corporation [registered] **licensed** to practice architecture, every [registered] **licensed** professional engineer or corporation [registered] **licensed** to practice professional engineering, every registered landscape architect or corporation registered to practice landscape architecture, and every [registered] **licensed** land surveyor or corporation [registered] **licensed** to practice land surveying, who does any landscape architectural, architectural, engineering or land surveying work upon or performs any landscape architectural, architectural, engineering or land surveying service directly connected with the erection or repair of any building or other improvement upon land [under or by virtue of] **pursuant to** any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, RSMo, upon complying with the provisions of this chapter, shall have for such person's landscape architectural, architectural, engineering or land surveying work or service so done or performed, a lien upon the building or other improvements and upon the land belonging to the

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 owner or lessee on which the building or improvements are situated, to the extent of one acre.  
17 If the building or other improvement is upon any lot of land in any town, city or village, then the  
18 lien shall be upon such building or other improvements, and the lot or land upon which the  
19 building or other improvements are situated, to secure the payment for the landscape  
20 architectural, architectural, engineering or land surveying work or service so done or performed.  
21 For purposes of this section, a corporation engaged in the practice of architecture, engineering,  
22 landscape architecture, or land surveying, shall be deemed to be registered if the corporation  
23 itself is registered [under] **pursuant to** the laws of this state to practice architecture, engineering  
24 or land surveying.

25         2. Every mechanic or other person who shall do or perform any work or labor upon or  
26 furnish any material or machinery for the digging of a well to obtain water [under or by virtue  
27 of] **pursuant to** any contract with the owner or lessee thereof, or such owner's or lessee's agent,  
28 trustee, contractor or subcontractor, upon complying with the provisions of sections 429.010 to  
29 429.340 shall have for such person's work or labor done, or materials or machinery furnished,  
30 a lien upon the land belonging to such owner or lessee on which the same are situated, to the  
31 extent of one acre, to secure the payment of such work or labor done, or materials or machinery  
32 furnished as aforesaid.

33         3. Every mechanic or other person who shall do or perform any work or labor upon, or  
34 furnish any material, fixtures, engine, boiler or machinery, for the purpose of demolishing or  
35 razing a building or structure [under or by virtue of] **pursuant to** any contract with the owner  
36 or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, or  
37 without a contract if ordered by a city, town, village or county having a charter form of  
38 government to abate the conditions that caused a structure on that property to be deemed a  
39 dangerous building under local ordinances pursuant to section 67.410, RSMo, upon complying  
40 with the provisions of sections 429.010 to 429.340, shall have for such person's work or labor  
41 done, or materials, fixtures, engine, boiler or machinery furnished, a lien upon the land belonging  
42 to such owner or lessee on which the same are situated, to the extent of one acre. If the building  
43 or buildings to be demolished or razed are upon any lot of land in any town, city or village, then  
44 the lien shall be upon the lot or lots or land upon which the building or other improvements are  
45 situated, to secure the payment for the labor and materials performed.

46         4. **If a city not within a county has, with or without a contract with the owner or**  
47 **lessee of the property or such owner's or lessee's agent, trustee, contractor or**  
48 **subcontractor, ordered a mechanic or other person to perform the work described in**  
49 **subsection 3 of this section, and if such city has paid the mechanic or other person in full**  
50 **at any time within one hundred twenty days after the mechanic or other person has**  
51 **completed such work, then such city shall, upon complying with the provisions of sections**

52 **429.010 to 429.340, have a lien on the property in lieu of the lien that the mechanic or other**  
53 **person would have had pursuant to subsection 3 of this section.**

54 **5.** The provisions of sections 429.030 to 429.060 and sections 429.080 to 429.430  
55 applicable to liens of mechanics and other persons shall apply to and govern the procedure with  
56 respect to the liens provided for in subsections 1, 2 [and], 3 **and 4** of this section.

57 [5.] **6.** Any design professional or corporation authorized to have lien rights [under]  
58 **pursuant to** subsection 1 of this section shall have a lien upon the building or other  
59 improvement and upon the land, whether or not actual construction of the planned work or  
60 improvement has commenced if:

61 (1) The owner or lessee thereof, or such owner's or lessee's agent or trustee, contracted  
62 for such professional services directly with the design professional or corporation asserting the  
63 lien; [and]

64 (2) The owner or lessee is the owner or lessee of such real property either at the time the  
65 contract is made or at the time the lien is filed; **and**

66 **(3) The agreement is in writing.**

67 [6.] **7.** Priority between a design professional or corporation lien claimant and any other  
68 mechanic's lien claimant shall be determined pursuant to the provisions of section 429.260 on  
69 a pro rata basis.

70 [7.] **8.** In any civil action, the owner or lessee may assert defenses which include that the  
71 actual construction of the planned work or improvement has not been performed in compliance  
72 with the professional services contract, is impracticable or is economically infeasible.

73 [8. The agreement is in writing.]